



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

DA 13-1290
May 31, 2013

DOMESTIC SECTION 214 APPLICATION GRANTED

Application filed for the Transfer of Control of IP Networks, Inc. to Level 3 Communications, LLC

WC Docket No. 13-100

On April 19, 2013, IP Networks, Inc. (IPN) and Level 3 Communications, LLC (Level 3) (together, Applicants) filed an application pursuant to section 63.03 of the Commission's rules¹ to transfer control of IPN to Level 3.

IPN, a Delaware corporation, provides facilities-based interstate, intrastate, and competitive local exchange services (LEC) in California. Level 3 provides interstate, intrastate, and competitive LEC services throughout the U.S. The Wireline Competition Bureau (Bureau) released a public notice accepting this application for streamlined processing on April 30, 2013.² On May 15, 2013, the Department of Justice, including the Federal Bureau of Investigation, with the concurrence of the Department of Homeland Security (collectively, Executive Branch Agencies), filed a letter requesting that the Commission defer grant of this application while they reviewed national security, law enforcement, and public safety issues.³

On May 21, 2013, the Executive Branch Agencies filed a letter notifying the Commission that they have no objection to the grant of the application provided the Commission conditions its consent on continuing compliance by Level 3 and its subsidiaries and affiliates with the September 26, 2011 National Security Agreement by and between Level 3 Communications, Inc., the parent company of Level 3, and the U.S. Departments of Justice, Homeland Security and Defense (2011 NSA).⁴ In its application, Level 3 agreed to have grant of the application conditioned upon its continued compliance with the 2011 NSA.⁵

¹ 47 C.F.R. § 63.03; *see* 47 U.S.C. § 214.

² *Domestic Section 214 Application Filed for the Transfer of Control of IP Networks, Inc. to Level 3 Communications, LLC*, WC Docket No. 13-100, Public Notice, DA 13-962 (rel. Apr. 30, 2013).

³ Letter from Joanne P. Ongman, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-100 (filed May 15, 2013).

⁴ Letter from Joanne P. Ongman, U.S. Department of Justice, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 13-100 (filed May 21, 2013).

⁵ *See Amendment to Domestic Section 214 Application Filed for the Transfer of Control of IP Networks, Inc. to Level 3 Communications, LLC*, WC Docket No. 13-100, at 1-2 (filed May 6, 2013) (stating that Level 3 commits to extend the national security, law enforcement, and public safety commitments made in connection with its prior acquisition of Global Crossing Limited to IPN upon consummation of the proposed transaction and requesting that

The Bureau finds, upon consideration of the record, that grant of the application, subject to compliance by Level 3 and its subsidiaries and affiliates with the 2011 NSA by and between Level 3 Communications, Inc. and the U.S. Departments of Justice, Homeland Security and Defense, will serve the public interest, convenience, and necessity. Upon consummation of the proposed transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to this transaction is dominant with respect to any domestic service.

Consistent with Commission precedent, the Bureau accords the appropriate level of deference to the Executive Branch Agencies' expertise on national security and law enforcement issues.⁶ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission's rules, 47 C.F.R. § 0.291, the Bureau hereby conditions the grant of the application discussed in this Public Notice upon the continued compliance of Level 3 with the 2011 NSA.

Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the grant is effective upon release of this Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106 and 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Jodie May at (202) 418-0913.

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the Commission grant consent for the proposed transaction conditioned upon the continuing compliance by Level 3 and its subsidiaries and affiliates with the 2011 NSA); *Applications Filed by Global Crossing Limited and Level 3 Communications, Inc. for Consent to Transfer Control*, IB Docket No. 11-78, Memorandum Opinion and Order, 26 FCC Rcd 14056, 14080, paras. 62-63 (Wireline Comp. Bur and Int'l. Bur. 2011). The 2011 NSA is publicly available on the Commission's website. See DOJ/DHS/DOD Petition, available at <http://webapp01.fcc.gov/ecfs/document/view?id=7021711200>; Security Agreement, available at <http://webapp01.fcc.gov/ecfs/document/view?id=7021711201>.

⁶ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. See *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) (*Foreign Participation Order*), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.